

TITLE 8 DEVELOPMENT CODE
DIVISION 4: LAND USES
CHAPTER 8: NONCONFORMING USES.
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84.0801 General Provisions.

The regulations in this chapter shall apply to all existing nonconforming buildings and uses.

Readopted Ordinance 3341 (1989)

84.0805 Continuation of Nonconforming Buildings and Uses.

(a) Any nonconforming building may be continued and maintained, except as provided in this chapter, provided there are no structural alterations, except as provided in this chapter.

(b) Any nonconforming use may be continued, except as provided in this chapter, provided that the use shall not be increased, enlarged, extended or altered, except as provided in this chapter.

Readopted Ordinance 3341 (1989); Amended Ordinance 3465 (1991)

84.0810 Termination of Nonconforming Use.

(a) Any part of a building or land occupied by a non-conforming use which is changed to or replaced by a use conforming to the provisions of this Code as they apply to the particular district, shall thereafter be used or occupied only by a conforming use.

(b) Any part of a building or land occupied by a non-conforming use, which use is discontinued for one hundred and eighty (180) days or more, shall thereafter be used in conformity with the provisions of this Section. The provisions of this Section shall not prevent the reconstruction, repairing or rebuilding and continued use of any nonconforming buildings or buildings damaged by any natural or man-made catastrophe subsequent to the effective date of this Code, wherein the cost of such reconstruction, repairing or rebuilding does not exceed seventy-five percent (75%) of the reasonable value of such building or buildings constituting a single enterprise at the time such damage occurred.

Readopted Ordinance 3341 (1989)

84.0815 Removal or Alterations of Nonconforming Uses.

(a) Every legal nonconforming use, which was designated or intended for a use not presently permitted in the district where it is located, shall be completely removed or altered to conform to the requirements for the uses permitted in such district within a time fixed by the Planning Agency. Such time for removal or alteration may not be fixed for a date before the expiration of the normal life of any building as determined by the Planning Agency. Such determination of the normal life of nonconforming building and the fixing of time for its removal or alteration may only be made after notice to the owner.

(b) An order for removal or alteration shall require such action on a date no less than five (5) years from the time such an order is made. It shall be the duty of the Planning Agency to give the owner of the affected use or building written notice thereof immediately upon the order becoming final and again not less than sixty (60) or more than one hundred eighty (180) days prior to the date such removal or alteration is required to be completed. If the Planning Agency fails to give this second notice within the above time period, the owner shall be given sixty (60) days from the notice's actual postmark date.

(c) A residential structure which complied with any applicable development standards at the time of its construction and which is utilized for residential purposes in a Land Use District which allows such residential uses is not subject to provisions of this Chapter even though it does not comply with the residential design standards established by the Land Use Districts or the Alternate Housing Standards Overlay District.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, the following provisions shall apply to adult-oriented businesses:

(1) Any adult-oriented business which is a nonconforming use on January 1, 1992, shall be subject to an amortization period expiring January 1, 1995, and any adult-oriented business which becomes a nonconforming use

after January 1, 1992, shall be subject to an amortization period of three years commencing on the date the use becomes nonconforming.

(2) The owner of any adult-oriented business which is a nonconforming use may apply for extension of the amortization period, pursuant to Section 83.0301205 of this Title. Such application shall be made prior to the expiration of the amortization period unless the reviewing authority determines that good cause is shown for late filing of the application.

(3) Upon the conclusion of the amortization period, any adult-oriented business which is a nonconforming use shall cease all business operation and all signs, advertising and displays relating to said business shall be removed within thirty (30) days.

Readopted Ordinance 3341 (1989); Amended Ordinance 3427 (1990); Amended Ordinance 3465 (1991)

84.0820 Nonconforming Commercial Chicken Ranch.

(a) Any commercial chicken ranch legally existing at the time of a district change to a residential district may thereafter continue in operation and expand the flock to the full limit and extent of chicken houses, cages, brooders and similar appurtenant structures existing on the premises at that time, provided that a Certificate of Land Use Compliance is recorded, including an existing use site plan prior to the effective date of the district change.

(b) In the event such a commercial chicken ranch desires the addition of chicken houses, cages, brooders or similar structures beyond those existing as enumerated above, an approved Conditional Use Permit is required, including findings for alteration of a nonconforming use.

Readopted Ordinance 3341 (1989)

84.0825 Other Nonconforming Uses.

(a) The legal nonconforming use of land where no structure is existing at the time the Development Code became effective, may continue for a period of not more than (10) years therefrom, provided:

(1) The nonconforming use of land will not in any way be expanded or extended, either on the same or adjoining property.

(2) The nonconforming use of land existed at the time the Development Code became effective. If thereafter discontinued or changed, it may not be re-established; any future use of such land shall be in conformity with the provisions of the Development Code.

(b) Any legal nonconforming commercial primary or accessory signs existing at the time this Code became effective may be continued, although such use does not conform with the provisions thereof; provided, however, that all such nonconforming signs and their supporting members shall be completely removed by their owners not later than five (5) years from the effective date of this Code.

(c) The foregoing provisions shall also apply to all buildings and land and uses which hereafter become nonconforming due to any reclassification of districts under this Code.

Readopted Ordinance 3341 (1989)

84.0830 Alteration of Nonconforming Uses.

(a) A legal nonconforming use may only be altered after review and approval of a Conditional Use Permit with the additional findings required for such nonconforming use alterations.

(b) Any alteration required by governmental or court action shall be exempt from these conditions.

(c) Restrictions and conditions affecting a non-conforming use shall apply to the existing use, land and structures and shall not be affected by ownership changes.

(d) Notwithstanding the provisions regarding Conditional Use Permit or variance, the Building Official may allow the construction of an additional modification to a legally existing structure within a current yard setback area, as established by an applicable residential Land Use District, when such legally existing building is within the yard setback area, and provided such additional modification does not exceed the projection of the existing structure into such current yard setback area and does not come closer than three (3) feet to any property line. In the Fire Safety Overlay District, such additional modification shall not come closer than five (5) feet to any property line.

(e) The requirement for a Conditional Use Permit shall not apply to nonconforming residential uses, where such uses are being modified or expanded up to a maximum of 2000 square feet of floor space or by no more than twenty-five percent (25%) of the floor space or ground area existing at the time such use became a nonconforming use, whichever is greater.

(f) The requirement for a Conditional Use Permit shall not apply to any nonconforming use or structure which is being expanded, altered or modified to more closely approximate or exceed the standards of this Code with which it does not currently conform.

Readopted Ordinance 3341 (1989); Amended Ordinance 3825 (2001), Amended Ordinance 3918 (2004),